

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ESMELYN PLUNKETT,

Plaintiff,

V.

INGLEMOOR REHABILITATION AND
CARE CENTER et al.,

Defendants.

Civil Action No. 12-7337 (SRC)

OPINION

CHESLER, District Judge

This motion comes before the Court on the motion to dismiss the Second Amended Complaint, pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), for lack of subject matter jurisdiction and for failure to state a valid claim for relief, by Defendants Inglemoor Rehabilitation and Care Center and Steve Izzo (collectively, “Defendants”). For the reasons stated below, the motion to dismiss will be granted.

Defendants first move to dismiss the Second Amended Complaint on the ground that the Court lacks subject matter jurisdiction over this case, which is correct. The Second Amended Complaint asserts one claim, for violation of New Jersey's Law Against Discrimination. The Second Amended Complaint asserts no federal claims, nor does Plaintiff contend that there is diversity jurisdiction. As such, Defendants contend, this Court presently lacks subject matter jurisdiction over this case.

In opposition, Plaintiff does not dispute this, but asks for a dismissal without prejudice so that Plaintiff may re-file the case in state court. That is the correct route for this case to take.

The Second Amended Complaint will be dismissed without prejudice so that Plaintiff may re-file it in state court.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J

Dated: 1/15/14